

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1489 AND HOUSE BILL NO. 1850

91ST GENERAL ASSEMBLY

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Reported from the Committee on Civil and Criminal Jurisprudence, May 3, 2002, with recommendation that the Senate Committee Substitute do pass.

3699S.05C

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 50.550, 56.765, 57.280, 143.782, 488.5017, 558.019 and 559.021, RSMo, and to enact in lieu thereof eleven new sections relating to certain law enforcement funding, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

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Section A. Sections 50.550, 56.765, 57.280, 143.782, 488.5017, 558.019 and  
2 559.021, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be  
3 known as sections 50.550, 50.555, 56.765, 57.280, 143.782, 488.5017, 488.5021, 558.019,  
4 559.021, 650.350 and 1, to read as follows:

50.550. **1.** The annual budget shall present a complete financial plan for the  
2 ensuing budget year. It shall set forth all proposed expenditures for the administration,  
3 operation and maintenance of all offices, departments, commissions, courts and  
4 institutions; the actual or estimated operating deficits or surpluses from prior years; all  
5 interest and debt redemption charges during the year and expenditures for capital  
6 projects.

**2.** The budget shall contain adequate provisions for the expenditures necessary  
7 for the care of insane pauper patients in state hospitals, for the cost of holding elections  
8 and for the costs of holding circuit court in the county that are chargeable against the  
9

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

10 county, for the repair and upkeep of bridges other than on state highways and not in any  
11 special road district, and for the salaries, office expenses and deputy and clerical hire  
12 of all county officers and agencies.

13       **3.** In addition, the budget shall set forth in detail the anticipated income and  
14 other means of financing the proposed expenditures.

15       **4.** All receipts of the county for operation and maintenance shall be credited to  
16 the general fund, and all expenditures for these purposes shall be charged to this fund;  
17 except, that receipts from the special tax levy for roads and bridges shall be kept in a  
18 special fund and expenditures for roads and bridges may be charged to the special fund.

19       **5.** All receipts from the sale of bonds for any purpose shall be credited to the  
20 bond fund created for the purpose, and all expenditures for this purpose shall be charged  
21 to the fund. All receipts for the retirement of any bond issue shall be credited to a  
22 retirement fund for the issue, and all payments to retire the issue shall be charged to  
23 the fund. All receipts for interest on outstanding bonds and all premiums and accrued  
24 interest on bonds sold shall be credited to the interest fund, and all payments of interest  
25 on the bonds shall be charged to the interest fund.

26       **6. Subject to the provisions of section 50.555 the county commission**  
27 **may create a fund to be known as "The ..... County Crime Reduction**  
28 **Fund".**

29       **7.** The county commission may create other funds as are necessary from time to  
30 time.

**50.555. 1. A county commission may establish by ordinance or order a**  
2 **fund whose proceeds may be expended only for the purposes provided for in**  
3 **subsection 3 of this section. The fund shall be designated as a county crime**  
4 **reduction fund and shall be under the supervision of a board of trustees**  
5 **consisting of one citizen of the county appointed by the presiding**  
6 **commissioner of the county, one citizen of the county appointed by the sheriff**  
7 **of the county, and one citizen of the county appointed by the county**  
8 **prosecuting attorney.**

9       **2. Money from the county crime reduction fund shall only be expended**  
10 **upon the approval of a majority of the members of the county crime reduction**  
11 **fund's board of trustees and only for the purposes provided for by subsection**  
12 **3 of this section.**

13       **3. Money from the county crime reduction fund shall only be expended**  
14 **for the following purposes:**

15       **(1) Narcotics investigation, prevention, and intervention;**

16           **(2) Purchase of law enforcement related equipment and supplies for the**  
17 **sheriff's office;**

18           **(3) Matching funds for federal or state law enforcement grants;**

19           **(4) Funding for the reporting of all state and federal crime statistics**  
20 **or information; and**

21           **(5) Any law enforcement related expense, including those of the**  
22 **prosecuting attorney, approved by the board of trustees for the county crime**  
23 **reduction fund that is reasonably related to investigation, preparation, trial,**  
24 **and disposition of criminal cases before the courts of the state of Missouri.**

25           **4. The county commission may not reduce any law enforcement**  
26 **agency's budget as a result of funds the law enforcement agency receives from**  
27 **the county crime reduction fund. The crime reduction fund is to be used only**  
28 **as a supplement to the law enforcement agency's funding received from other**  
29 **county, state, or federal funds.**

30           **5. County crime reduction funds shall be audited as are all other**  
31 **county funds.**

56.765. 1. A surcharge of one dollar **and fifty cents** shall be assessed as costs  
2 in each court proceeding filed in any court in the state in all criminal cases including  
3 violations of any county ordinance or any violation of a criminal or traffic law of the  
4 state, including an infraction; except that no such surcharge shall be collected in any  
5 proceeding in any court when the proceeding or the defendant has been dismissed by the  
6 court or when costs are to be paid by the state, county or municipality.

7           2. One[-half] **dollar** of [all moneys] **each surcharge** collected under the  
8 provisions of subsection 1 of this section shall be payable to the state of Missouri and  
9 remitted to the director of revenue who shall deposit the amount collected pursuant to  
10 this section to the credit of the "Missouri Office of Prosecution Services Fund" which is  
11 hereby created in the state treasury. The moneys credited to the Missouri office of  
12 prosecution services fund from each county shall be used only for the purposes set forth  
13 in sections 56.750, 56.755, and 56.760. The state treasurer shall be the custodian of the  
14 fund, and shall make disbursements, as allowed by lawful appropriations. All earnings  
15 resulting from the investment of money in the fund shall be credited to the Missouri  
16 office of prosecution services fund. The Missouri office of prosecution services may  
17 collect a registration fee to pay for expenses included in sponsoring training  
18 conferences. The revenues and expenditures of the Missouri office of prosecution services  
19 shall be subject to an annual audit to be performed by the Missouri state auditor. The  
20 Missouri office of prosecution services shall also be subject to any other audit authorized

21 and directed by the state auditor.

22           3. [One-half] **Fifty cents** of [all moneys] **each surcharge** collected under the  
23 provisions of subsection 1 of this section shall be payable to the county treasurer of each  
24 county from which such funds were generated. The county treasurer shall deposit all of  
25 such funds into the county treasury in a separate fund to be used solely for the purpose  
26 of additional training for circuit and prosecuting attorneys and their staffs. If the funds  
27 collected and deposited by the county are not totally expended annually for the purposes  
28 set forth in this subsection, then the unexpended moneys shall remain in said fund and  
29 the balance shall be kept in said fund to accumulate from year to year, or at the request  
30 of the circuit or prosecuting attorney, with the approval of the county commission or the  
31 appropriate governing body of the county or the city of St. Louis, and may be used to pay  
32 for expert witness fees, travel expenses incurred by victim/witnesses in case preparation  
33 and trial, for expenses incurred for changes of venue, for expenses incurred for special  
34 prosecutors, and for other lawful expenses incurred by the circuit or prosecuting attorney  
35 in operation of that office.

36           4. There is hereby established in the state treasury the "Missouri Office of  
37 Prosecution Services Revolving Fund". Any moneys received by or on behalf of the  
38 Missouri office of prosecution services from registration fees, federal and state grants or  
39 any other source established in section 56.760 in connection with the purposes set forth  
40 in sections 56.750, 56.755, and 56.760 shall be deposited into the fund.

41           5. The moneys in the Missouri office of prosecution services revolving fund shall  
42 be kept separate and apart from all other moneys in the state treasury. The state  
43 treasurer shall administer the fund and shall disburse moneys from the fund to the  
44 Missouri office of prosecution services pursuant to appropriations for the purposes set  
45 forth in sections 56.750, 56.755 and 56.760.

46           6. Any unexpended balances remaining in the Missouri office of prosecution  
47 services fund and the Missouri office of prosecution services revolving fund at each  
48 biennium shall be exempt from the provisions of section 33.080, RSMo, relating to the  
49 transfer of unexpended balances to general revenue.

57.280. 1. **As used in this section, "sheriff" shall mean a sheriff of a city**  
2 **not located in a county.** Sheriffs shall receive a charge for service of any summons,  
3 writ or other order of court, in connection with any civil case, and making on the same  
4 either a return indicating service, a non est return or a nulla bona return, the sum of  
5 twenty dollars for each item to be served, except that a sheriff shall receive a charge for  
6 service of any subpoena, and making a return on the same, the sum of ten dollars;  
7 however, no such charge shall be collected in any proceeding when court costs are to be

8 paid by the state, county or municipality. In addition to such charge, the sheriff shall  
9 be entitled to receive for each mile actually traveled in serving any summons, writ,  
10 subpoena or other order of court, the rate prescribed by the Internal Revenue Service for  
11 all allowable expenses for motor vehicle use expressed as an amount per mile, provided  
12 that such mileage shall not be charged for more than one subpoena or summons or other  
13 writ served in the same cause on the same trip. All of such charges shall be received by  
14 the sheriff who is requested to perform the service. Except as otherwise provided by law,  
15 all charges made pursuant to this section shall be collected by the court clerk as court  
16 costs and are payable prior to the time the service is rendered; provided that if the  
17 amount of such charge cannot be readily determined, then the sheriff shall receive a  
18 deposit based upon the likely amount of such charge, and the balance of such charge  
19 shall be payable immediately upon ascertainment of the proper amount of said charge. A  
20 sheriff may refuse to perform any service in any action or proceeding, other than when  
21 court costs are waived as provided by law, until the charge provided by this section is  
22 paid. Failure to receive the charge shall not affect the validity of the service.

23       2. The sheriff shall receive for receiving and paying moneys on execution or other  
24 process, where lands or goods have been levied and advertised and sold, five percent on  
25 five hundred dollars and four percent on all sums above five hundred dollars, and half  
26 of these sums, when the money is paid to the sheriff without a levy, or where the lands  
27 or goods levied on shall not be sold and the money is paid to the sheriff or person  
28 entitled thereto, [his] **such person's** agent or attorney. The party at whose application  
29 any writ, execution, subpoena or other process has issued from the court shall pay the  
30 sheriff's costs for the removal, transportation, storage, safekeeping and support of any  
31 property to be seized pursuant to legal process before such seizure. The sheriff shall be  
32 allowed for each mile, going and returning from the courthouse of the county in which  
33 [he] **the sheriff** resides to the place where the court is held, the rate prescribed by the  
34 Internal Revenue Service for all allowable expenses for motor vehicle use expressed as  
35 an amount per mile. The provisions of this subsection shall not apply to garnishment  
36 proceeds.

37       3. The sheriff upon the receipt of the charge herein provided for shall pay into  
38 the treasury of the county any and all charges received pursuant to [the provisions of]  
39 this section; however, in any county, any funds, [not to exceed fifty thousand dollars in  
40 any calendar year,] other than as a result of regular budget allocations or land sale  
41 proceeds, coming into the possession of the sheriff's office, such as from the sale of  
42 recovered evidence, shall be held in a fund established by the county treasurer, which  
43 may be expended at the discretion of the sheriff for the furtherance of the sheriff's set

44 duties. [Any such funds in excess of fifty thousand dollars, other than regular budget  
45 allocations or land sale proceeds, shall be placed to the credit of the general revenue  
46 fund of the county.] Moneys in the fund shall be used only for the procurement of  
47 services and equipment to support the operation of the sheriff's office. Moneys in the  
48 fund established pursuant to this subsection shall not lapse to the county general  
49 revenue fund at the end of any county budget or fiscal year.

143.782. As used in sections 143.782 to 143.788, unless the context clearly  
2 requires otherwise, the following terms shall mean and include:

3 **(1) "Court", the Supreme Court, court of appeals, or any circuit court**  
4 **of the state;**

5 [(1)] **(2) "Debt", any sum due and legally owed to any state agency which has**  
6 accrued through contract, subrogation, tort, or operation of law regardless of whether  
7 there is an outstanding judgment for that sum, **court costs as defined in section**  
8 **488.010, RSMo, fines and fees owed to a court,** or any support obligation which is  
9 being enforced by the division of family services on behalf of a person who is receiving  
10 support enforcement services pursuant to section 454.425, RSMo;

11 [(2)] **(3) "Debtor", any individual, sole proprietorship, partnership, corporation**  
12 or other legal entity owing a debt;

13 [(3)] **(4) "Department", the department of revenue of the state of Missouri;**

14 [(4)] **(5) "Refund", the Missouri income tax refund which the department**  
15 determines to be due any taxpayer pursuant to the provisions of this chapter. The  
16 amount of a refund shall not include any senior citizens property tax credit provided by  
17 sections 135.010 to 135.035, RSMo; and

18 [(5)] **(6) "State agency", any department, division, board, commission, office, or**  
19 other agency of the state of Missouri, including public community college district.

488.5017. A surcharge of one dollar **and fifty cents**, as provided for in section  
2 56.765, RSMo, shall be assessed as costs in each court proceeding filed in any court in  
3 the state in all criminal cases including violations of any county ordinance or any  
4 violation of a criminal or traffic law of the state, including an infraction; except that no  
5 such surcharge shall be collected in any proceeding in any court when the proceeding or  
6 the defendant has been dismissed by the court or when costs are to be paid by the state,  
7 county or municipality.

**488.5021. 1. In addition to any other assessment authorized by law, a**  
2 **court may assess a fee of twenty dollars on each person who pays a court**  
3 **ordered penalty, fine or sanction on a time payment basis, including parking**  
4 **penalties, restitution and juvenile monetary assessments. A time payment**

5 **basis shall be any penalty, fine or sanction not paid, in full, within thirty days**  
6 **of the date the court imposed the fine, penalty or sanction. Imposition of the**  
7 **time payment fee shall be in addition to any other enforcement provisions**  
8 **authorized by law.**

9 **2. Eight dollars of the time payment fee collected pursuant to this**  
10 **section shall be payable to the clerk of the court of the county from which**  
11 **such fee was collected, or to such person as is designated by local circuit**  
12 **court rule as treasurer of said fund, and said fund shall be applied and**  
13 **expended under the direction and order of the court en banc of any such**  
14 **county to be utilized by the court to improve, maintain and enhance the**  
15 **ability to collect and manage moneys assessed or received by the courts, to**  
16 **improve case processing, enhance court security or to improve the**  
17 **administration of justice. Seven dollars of the time payment fee shall be**  
18 **deposited in the statewide court automation fund pursuant to section 476.055,**  
19 **RSMo. Five dollars of the time payment fee shall be deposited in the drug**  
20 **court resources fund pursuant to section 478.009, RSMo.**

558.019. 1. This section shall not be construed to affect the powers of the  
2 governor under article IV, section 7, of the Missouri Constitution. This statute shall not  
3 affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015,  
4 RSMo, which set minimum terms of sentences, or the provisions of section 559.115,  
5 RSMo, relating to probation.

6 2. The provisions of this section shall be applicable to all classes of felonies  
7 except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection  
8 1 of this section. For the purposes of this section, "prison commitment" means and is the  
9 receipt by the department of corrections of a defendant after sentencing. For purposes  
10 of this section, prior prison commitments to the department of corrections shall not  
11 include commitment to a regimented discipline program established pursuant to section  
12 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any  
13 defendant who has pleaded guilty to or has been found guilty of a felony other than a  
14 dangerous felony as defined in section 556.061, RSMo, and is committed to the  
15 department of corrections shall be required to serve the following minimum prison terms:

16 (1) If the defendant has one previous prison commitment to the department of  
17 corrections for a felony offense, the minimum prison term which the defendant must  
18 serve shall be forty percent of his sentence or until the defendant attains seventy years  
19 of age, and has served at least forty percent of the sentence imposed, whichever occurs  
20 first;

21           (2) If the defendant has two previous prison commitments to the department of  
22 corrections for felonies unrelated to the present offense, the minimum prison term which  
23 the defendant must serve shall be fifty percent of his sentence or until the defendant  
24 attains seventy years of age, and has served at least forty percent of the sentence  
25 imposed, whichever occurs first;

26           (3) If the defendant has three or more previous prison commitments to the  
27 department of corrections for felonies unrelated to the present offense, the minimum  
28 prison term which the defendant must serve shall be eighty percent of his sentence or  
29 until the defendant attains seventy years of age, and has served at least forty percent  
30 of the sentence imposed, whichever occurs first.

31           3. Other provisions of the law to the contrary notwithstanding, any defendant  
32 who has pleaded guilty to or has been found guilty of a dangerous felony as defined in  
33 section 556.061, RSMo, and is committed to the department of corrections shall be  
34 required to serve a minimum prison term of eighty-five percent of the sentence imposed  
35 by the court or until the defendant attains seventy years of age, and has served at least  
36 forty percent of the sentence imposed, whichever occurs first.

37           4. For the purpose of determining the minimum prison term to be served, the  
38 following calculations shall apply:

39           (1) A sentence of life shall be calculated to be thirty years;

40           (2) Any sentence either alone or in the aggregate with other consecutive  
41 sentences for crimes committed at or near the same time which is over seventy-five years  
42 shall be calculated to be seventy-five years.

43           5. For purposes of this section, the term "minimum prison term" shall mean time  
44 required to be served by the defendant before he is eligible for parole, conditional release  
45 or other early release by the department of corrections. Except that the board of  
46 probation and parole, in the case of consecutive sentences imposed at the same time  
47 pursuant to a course of conduct constituting a common scheme or plan, shall be  
48 authorized to convert consecutive sentences to concurrent sentences, when the board  
49 finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the  
50 terms results in an unreasonably excessive total term, taking into consideration all  
51 factors related to the crime or crimes committed and the sentences received by others  
52 similarly situated.

53           6. (1) A sentencing advisory commission is hereby created to consist of eleven  
54 members. One member shall be appointed by the speaker of the house. One member  
55 shall be appointed by the president pro tem of the senate. One member shall be the  
56 director of the department of corrections. Six members shall be appointed by and serve



57 at the pleasure of the governor from among the following: the public defender  
58 commission; private citizens; a private member of the Missouri Bar; the board of  
59 probation and parole; and a prosecutor. Two members shall be appointed by the  
60 supreme court, one from a metropolitan area and one from a rural area. All members  
61 of the sentencing commission appointed prior to August 28, 1994, shall continue to serve  
62 on the sentencing advisory commission at the pleasure of the governor.

63 (2) The commission shall study sentencing practices in the circuit courts  
64 throughout the state for the purpose of determining whether and to what extent  
65 disparities exist among the various circuit courts with respect to the length of sentences  
66 imposed and the use of probation for defendants convicted of the same or similar crimes  
67 and with similar criminal histories. The commission shall also study and examine  
68 whether and to what extent sentencing disparity among economic and social classes  
69 exists in relation to the sentence of death and if so, the reasons therefor. It shall  
70 compile statistics, examine cases, draw conclusions, and perform other duties relevant  
71 to the research and investigation of disparities in death penalty sentencing among  
72 economic and social classes.

73 (3) The commission shall establish a system of recommended sentences, within  
74 the statutory minimum and maximum sentences provided by law for each felony  
75 committed under the laws of this state. This system of recommended sentences shall be  
76 distributed to all sentencing courts within the state of Missouri. The recommended  
77 sentence for each crime shall take into account, but not be limited to, the following  
78 factors:

79 (a) The nature and severity of each offense;

80 (b) The record of prior offenses by the offender;

81 (c) The data gathered by the commission showing the duration and nature of  
82 sentences imposed for each crime; and

83 (d) The resources of the department of corrections and other authorities to carry  
84 out the punishments that are imposed.

85 (4) The commission shall publish and distribute its system of recommended  
86 sentences on or before July 1, 1995. The commission shall study the implementation and  
87 use of the system of recommended sentences until July 1, 1998, and return a final report  
88 to the governor, the speaker of the house of representatives, and the president pro tem  
89 of the senate. Following the July 1, 1998, report, the commission may revise the  
90 recommended sentences every three years.

91 (5) The governor shall select a chairperson who shall call meetings of the  
92 commission as required or permitted pursuant to the purpose of the sentencing

93 commission.

94 (6) The members of the commission shall not receive compensation for their  
95 duties on the commission, but shall be reimbursed for actual and necessary expenses  
96 incurred in the performance of these duties and for which they are not reimbursed by  
97 reason of their other paid positions.

98 (7) The circuit and associate circuit courts of this state, the office of the state  
99 courts administrator, the department of public safety, and the department of corrections  
100 shall cooperate with the commission by providing information or access to information  
101 needed by the commission. The office of the state courts administrator will provide  
102 needed staffing resources.

103 **7. If the imposition or execution of a sentence is suspended, the court**  
104 **may consider ordering restorative justice methods pursuant to section**  
105 **217.777, RSMo, including any or all of the following, or any other method that**  
106 **the court finds just or appropriate:**

107 **(1) Restitution to any victim for costs incurred as a result of the**  
108 **offender's actions;**

109 **(2) Offender treatment programs;**

110 **(3) Mandatory community services;**

111 **(4) Work release programs in local facilities; and**

112 **(5) Community-based residential and nonresidential programs.**

113 **8. If the imposition or execution of a sentence is suspended for a**  
114 **misdemeanor, in addition to the provisions of subsection 7 of this section, the**  
115 **court may order the assessment and payment of a designated amount of**  
116 **money to a county crime reduction fund established by the county**  
117 **commission pursuant to section 50.555, RSMo. Such contribution shall not**  
118 **exceed one thousand dollars for any charged offense. Any money deposited**  
119 **into the county crime reduction fund pursuant to this section shall only be**  
120 **expended pursuant to the provisions of section 50.555, RSMo. County crime**  
121 **reduction funds shall be audited as are all other county funds.**

122 **[7.] 9.** The provisions of this section shall apply only to offenses occurring on or  
123 after August 28, 1994.

559.021. 1. The conditions of probation shall be such as the court in its  
2 discretion deems reasonably necessary to ensure that the defendant will not again  
3 violate the law. When a defendant is placed on probation he shall be given a certificate  
4 explicitly stating the conditions on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation,

6 the court may order such conditions as the court believes will serve to compensate the  
7 victim, any dependent of the victim, or society. Such conditions may include, but shall  
8 not be limited to:

9 (1) Restitution to the victim or any dependent of the victim, in an amount to be  
10 determined by the judge; and

11 (2) The performance of a designated amount of free work for a public or  
12 charitable purpose, or purposes, as determined by the judge.

13 **3. In addition to such other authority as exists to order conditions of**  
14 **probation, in the case of a plea of guilty or a finding of guilt, the court may**  
15 **order the assessment and payment of a designated amount of money to a**  
16 **county crime reduction fund established by the county commission pursuant**  
17 **to section 50.555, RSMo. Such contribution shall not exceed one thousand**  
18 **dollars for any charged offense. Any money deposited into the county crime**  
19 **reduction fund pursuant to this section shall only be expended pursuant to**  
20 **the provisions of section 50.555, RSMo. County crime reduction funds shall**  
21 **be audited as are all other county funds.**

22 [3.] **4.** The defendant may refuse probation conditioned on the performance of  
23 free work. If he does so, the court shall decide the extent or duration of sentence or  
24 other disposition to be imposed and render judgment accordingly. Any county, city,  
25 person, organization, or agency, or employee of a county, city, organization or agency  
26 charged with the supervision of such free work or who benefits from its performance  
27 shall be immune from any suit by the defendant or any person deriving a cause of action  
28 from him if such cause of action arises from such supervision of performance, except for  
29 an intentional tort or gross negligence. The services performed by the defendant shall  
30 not be deemed employment within the meaning of the provisions of chapter 288, RSMo  
31 defendant performing services pursuant to this section shall not be deemed an employee  
32 within the meaning of the provisions of chapter 287, RSMo.

33 [4.] **5.** The court may modify or enlarge the conditions of probation at any time  
34 prior to the expiration or termination of the probation term.

35 **6. The defendant may refuse probation conditioned on a payment to a**  
36 **county crime reduction fund. If he or she does so, the court shall decide the**  
37 **extent or duration of sentence or other disposition to be imposed and render**  
38 **judgment accordingly. A judge may order payment to a crime reduction fund**  
39 **only if such fund had been created prior to sentencing by ordinance or**  
40 **resolution of a county of the state of Missouri. A judge shall not have any**  
41 **direct supervisory authority or administrative control over any fund to which**

42 the judge is ordering the probationers to make payments. A defendant who  
43 fails to make a payment or payments to a county crime reduction fund may  
44 not have his probation revoked solely for failing to make such payment unless  
45 the judge, after evidentiary hearing, makes a finding supported by a  
46 preponderance of the evidence that the defendant either willfully refused to  
47 make the payment or that the defendant willfully, intentionally, and  
48 purposefully failed to make sufficient bona fide efforts to acquire the  
49 resources to pay.

650.350. 1. There is hereby created within the department of public  
2 safety the "Missouri Sheriff Methamphetamine Relief Team"  
3 (MoSMART). MoSMART shall be composed of a five member panel. The  
4 MoSMART office shall be located in any one of the one hundred fifteen  
5 Missouri sheriffs' offices. The first five-member panel shall be appointed by  
6 the Missouri sheriffs' association board of directors for two years, thereafter,  
7 the panel shall be elected for two-year terms by the Missouri sheriffs'  
8 association board of directors. The department of public safety shall provide  
9 oversight of MoSMART. All funds appropriated to the department of public  
10 safety for MoSMART shall be administered by the five-member panel. The  
11 panel will consist of five sheriffs from different regions of the state, one of  
12 whom will be elected coordinator of MoSMART. The panel will coordinate the  
13 application review process with the coordinator of the Midwest High  
14 Intensity Drug Trafficking Area (HIDTA), the director of Missouri division of  
15 drug and crime control, the Missouri state highway patrol, and the Missouri  
16 department of public safety. The coordinator will appoint a review panel to  
17 review every application submitted to MoSMART for funding. All applications  
18 will be reviewed within sixty days of being received. The applicants  
19 approved initially by the review panel will then be forwarded to the  
20 coordinator for final approval. After final approval, the award will be made.

21 2. MoSMART shall meet as many times as needed to process  
22 applications and make awards. Additional meetings shall be held upon the  
23 request of at least two members.

24 3. A special fund is hereby created in the state treasury, to be know as  
25 the "MoSMART Fund". The state treasurer shall invest the moneys in such  
26 fund in the manner authorized by law. All moneys received from  
27 appropriations, interest, or federal moneys shall be deposited to the credit of  
28 the fund. Moneys in the fund may be disbursed to local, county, and  
29 interjurisdictional agencies upon application only and specifically for the use

30 in eliminating methamphetamine labs within the state. The committee shall  
31 distribute at least fifty percent but not more than one hundred percent of the  
32 fund annually.

33 4. All moneys appropriated to or received by MoSMART shall be  
34 deposited and credited to the MoSMART fund. The department of public  
35 safety shall only be reimbursed for actual and necessary expenses for the  
36 administration of MoSMART, no less than one percent and not to exceed two  
37 percent. The fund shall be audited annually by the state auditor or an  
38 independent auditor chosen by the panel. The provisions of section 33.080,  
39 RSMo, to the contrary notwithstanding, moneys in the MoSMART fund shall  
40 not lapse to general revenue at the end of the biennium.

41 5. Any rule or portion of a rule, as that term is defined in section  
42 536.010, RSMo, that is created under the authority delegated in this section  
43 shall become effective only if it complies with and is subject to all of the  
44 provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
45 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of  
46 the powers vested with the general assembly pursuant to chapter 536, RSMo,  
47 to review, to delay the effective date or to disapprove and annul a rule are  
48 subsequently held unconstitutional, then the grant of rulemaking authority  
49 and any rule proposed or adopted after August 28, 2002, shall be invalid and  
50 void.

51 6. Any county and city not within a county law enforcement entity or  
52 established task force with a memorandum of understanding and protocol  
53 may apply for grants from the MoSMART fund on application provided by  
54 MoSMART. All applications shall be reviewed by MoSMART. No applicant  
55 shall receive grants in excess of one hundred thousand dollars per year or for  
56 more than three consecutive years.

57 7. MoSMART's anti-methamphetamine funding priorities are as follows:

58 (1) Sheriffs who are participating in coordinated multi-jurisdictional  
59 task forces and have their task forces apply for funding;

60 (2) Sheriffs whose county has been designated HIDTA counties, yet  
61 have received no HIDTA or narcotics assistance program funding; and

62 (3) Sheriffs without HIDTA designations or task forces, whose  
63 application justifies the need for MoSMART funds to eliminate  
64 methamphetamine labs.

Section 1. 1. Upon an individual's failure to pay court costs, fines, fees  
2 or other sums ordered by a court as payable to the state, a court may report

3 any such delinquencies in excess of twenty-five dollars to the office of state  
4 courts administrator and request that the state courts administrator seek a  
5 setoff of an income tax refund.

6 2. The office of state courts administrator shall give the department of  
7 revenue the information necessary to identify each debtor whose refund is  
8 sought to be set off and the amount of the debt or debts owed by each such  
9 debtor who is entitled to a refund in excess of twenty-five dollars.

10 3. The department of revenue shall notify the office of state courts  
11 administrator that a refund has been set off on behalf of a court and shall  
12 certify the amount of such setoff, which shall not exceed the amount of the  
13 claimed debt certified. When the refund owed exceeds the claimed debt, the  
14 department of revenue shall send the excess amount to the debtor within a  
15 reasonable time after such excess is determined.

16 4. The department of revenue shall notify the debtor by mail that a set  
17 off has been sought. The notice shall contain the following:

18 (1) The name of the debtor;

19 (2) The manner in which the debt arose;

20 (3) The amount of the claimed debt and the department's intention to  
21 set off the refund against the debt;

22 (4) The amount, if any, of the refund due after set off of the refund  
23 against the debt; and

24 (5) The right of the debtor to apply in writing to the court originally  
25 requesting set off for review of the set off because the debt was previously  
26 satisfied.

27 5. Any debtor applying to the court for review of the set off must file  
28 a written application within thirty days of the date of mailing of the notice  
29 and send a copy of the application to the office of state courts  
30 administrator. The application for review of the set off shall contain the  
31 name of the debtor, the case name and number from which the debt arose,  
32 and the grounds for review. The court may upon application, or on its own  
33 motion, hold a hearing on the application. The hearing shall be ancillary to  
34 the original action with the only matter for determination whether the refund  
35 set off was appropriate because the debt was unsatisfied at the time the court  
36 reported the delinquency to the office of state courts administrator and that  
37 the debt remains unsatisfied.

38 6. In the case of a joint or combined return, the notice sent by the  
39 department shall contain the name of the nonobligated taxpayer named in the

40 return, if any, against whom no debt is claimed. The notice shall state that  
41 as to the nonobligated taxpayer that no debt is owed and that the taxpayer  
42 is entitled to a refund regardless of the debt owed by such other person or  
43 persons named on the joint or combined return. The nonobligated taxpayer  
44 may seek a refund as provided in 143.784, RSMo.

45       7. Upon receipt of funds transferred from the department of revenue  
46 to the office of state courts administrator pursuant to a refund set off, the  
47 state courts administrator shall deposit such funds in the state treasury to be  
48 held in an escrow account, which is hereby established. Interest earned on  
49 those funds shall be credited to the escrow account and used to offset  
50 administrative expenses. If a debtor files with a court an application for  
51 review, the state courts administrator shall hold such sums in question until  
52 directed by that court to release the funds. If no application for review is  
53 filed, the state courts administrator shall, within forty-five days of receipt of  
54 funds from the department, send to the clerk of the court in which the debt  
55 arose such sums as are collected by the department of revenue for credit to  
56 the debtor's account.

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